

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

V.

ALI AL-TIMIMI,

Defendant.

harming Americans overseas.” Dkt. No. 515 at 2-3. To the contrary, no witness testified that Al-Timimi directly said to join the Taliban. Instead, the government argued that this was Al-Timimi’s intent, relying for example on evidence that included an email that Al-Timimi later wrote about Mullah Omar and the Taliban. The defense will not attempt to relitigate that issue here, but suffice it to say that the witnesses split over what Al-Timimi said at the 9/16 dinner gathering, and the government candidly acknowledged that its witnesses were “subject to significant impeachment.”¹ One of the defense’s appellate positions is that there is a substantial First Amendment question over whether alleged statements at issue in this case are sufficiently specific to give rise to criminality—not whether anyone has a right to instruct others to join the Taliban.

3. The *Hassoun* case also has no doctrinal applicability here because it involves alien removal statutes that do not apply to United States citizens such as Al-Timimi.

4. As a final point, the defense notes that all of the convicted principals, including Kwon, Hasan, Royer, Chapman, and Khan, appear to no longer be in federal custody at all—thus further undermining the government’s dangerousness argument.

¹ See, e.g., Trial Tr., April 12, 2005 [Dkt. No. 153] at 1654 (government at bench conference on day 6 of trial: “If I could just say, this is not a surprise to anyone, that our witnesses, our cooperating witnesses are subject to significant impeachment, and we don’t have a tape recording of what happened on September 16. We have a couple of documents that tend to corroborate what Ali Al-Timimi’s position was with respect to his supporting the Taliban.”)

Dated: August 4, 2020

Respectfully submitted,

/s/

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CERTIFICATE OF SERVICE

I certify that on August 4, 2020, I will file the foregoing document on the CM/ECF system, which will then serve it by electronic notification on all parties of record. This Court's designated Classified Information Security Officer has confirmed that the present motion may be filed on the public docket.

/s/

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